

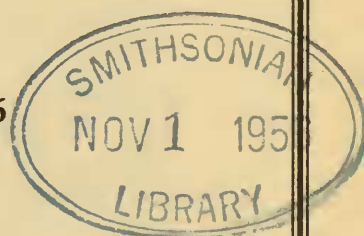
OPINIONS AND DECLARATIONS RENDERED BY THE INTER- NATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

Edited by

FRANCIS HEMMING, C.M.G., C.B.E.

Secretary to the Commission

VOLUME 14. Part 9. Pp. 243—256



OPINION 425

*Addition to the Official Index of Rejected and Invalid
Generic Names in Zoology of the name Palmatotriton
Smith (H.M.), 1945 (Class Amphibia)*

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INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

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Professor Enrico TORTONESE (*Museo di Storia Naturale "G. Doria", Genova, Italy*) (16th December 1954)

OPINION 425

ADDITION TO THE "OFFICIAL INDEX OF REJECTED AND INVALID GENERIC NAMES IN ZOOLOGY" OF THE NAME "PALMATOTRITON" SMITH (H.M.), 1945 (CLASS AMPHIBIA)

RULING :—(1) It is hereby ruled that under Proviso (c) to Article 25, as amended by Decision 109 by the Fourteenth International Congress of Zoology, Copenhagen, 1953, the generic name *Palmatotriton* Smith (H.M.), 1945, is to be treated as having been published without the minimum indication required by the foregoing Proviso, so amended, and therefore that this name, as so published, did not acquire the status of availability.

(2) The under-mentioned generic name is hereby placed on the *Official Index of Rejected and Invalid Generic Names in Zoology* with the Name No. 526 : *Palmatotriton* Smith (H.M.), 1945 (Class Amphibia) (a name rejected under (1) as having been published without an "indication").

(3) The under-mentioned specific name is hereby placed on the *Official List of Specific Names in Zoology* with the Name No. 949 : *rufescens* Cope, 1869, as published in the combination *Oedipus rufescens*.

I. THE STATEMENT OF THE CASE

On 25th July 1951 Dr. Hobart M. Smith (*University of Illinois, Urbana, Illinois, U.S.A.*) addressed a communication to the

Office of the International Commission on Zoological Nomenclature regarding the generic name *Palmatotriton* which had been used by himself in a popular article published in 1945 at a time when he believed that this name had recently been published by a fellow-worker. Dr. Smith expressed the view that means should be found for rejecting this name which it had never been his intention to publish as a new name. Ultimately after correspondence with the Secretary, Dr. Smith on 6th February 1952 submitted the following application to the Commission asking it to use its Plenary Powers to suppress the foregoing generic name :—

**Proposed use of the Plenary Powers to suppress “*Palmatotriton*”
Smith, 1945 (Class Amphibia, Order Caudata)**

By HOBART M. SMITH

(Department of Zoology, University of Illinois, Urbana, Illinois, U.S.A.)

In a popular article (“Herpetological Collecting in Banana Fields of Mexico”) published in Volume 19, number 1, 1945, page 4 of Ward’s *Natural Science Bulletin* (a widely distributed and regularly published journal of Ward’s Natural Science Establishment, Rochester, New York) there appeared for the first time the generic name *Palmatotriton*. This name occurs in the following verbatim context: “Commonest in central Veracruz are the salamanders especially *Palmatotriton rufescens*, a small, broad-footed species about two inches long. This species is incredibly common, generally several occurring under each stalk. Yet, before this habitat and method of hunting was discovered, the species was considered to be rather rare, for only seven specimens were known from Mexico and thirteen from all other countries within range !”

2. As author of that article and of the passage quoted, I know the species referred to is the one now recognised (by Smith and Taylor, 1948, *Bull. U.S. nat. Mus.* **194** : 23 ; *et al.*) as *Bolitoglossa rufescens* (Cope), originally described as *Oedipus rufescens* Cope, 1869 (*Proc. Acad. nat. Sci. Philad.* **21** : 104). The specific name has been cited under no other combination, so far as we are aware.

3. To other authors it may be equally as apparent as to me that the species referred to is the one cited above, but this is true only because of their knowledge of esoteric information : they know the fauna of central Veracruz, or the habitat of the species, or which species in that area would be two inches long and broad-footed (no other is), or

which species having these characteristics was known at the time of the last monograph prior to 1945 (Dunn, *Salamanders of the Family Plethodontidae*, 1926, p. 418) from only seven Mexican and thirteen non-Mexican specimens.

4. The name *Palmatotriton* was used under the erroneous impression that it was to be published prior to the date this article appeared by another author who at one time intended that it should be used for the group of species to which *rufescens* Cope belongs, as distinct from other species now included with *rufescens* in *Bolitoglossa*. That author later, unknown to me, determined not to segregate generically *rufescens* and its relatives from *Bolitoglossa*.

5. That it was my intent in 1945 to utilise a name already available, and definitely not to anticipate the other author's use, is not itself of significance although if decision on the status of the name were not clearly indicated, intent might justifiably be considered. The status of the name is, on the contrary, clearly indicated.

6. Mr. Francis Hemming has pointed out, in reply to my query on this matter, that "under the amendment of Article 25 adopted by the Tenth International Congress of Zoology at Budapest in 1927 (which came into operation as from 1st January 1931) a name published in the way in which the name *Palmatotriton* was published would have possessed no availability, for no type species was designated for this genus. This portion of Article 25 was, however, considered further by the Thirteenth International Congress of Zoology at Paris in 1948 in the light of representations which had been received by the International Commission on Zoological Nomenclature that to refuse availability on the foregoing ground to a generic name published for a genus for which one species only was cited was unduly legalistic. The Paris Congress decided to modify the decision of the Budapest Congress in such a way as to confer availability upon a generic name published after 31st December 1931 for a monotypic genus even if no type species was explicitly designated by the original author of the generic name in question (see 1950, *Bull. zool. Nomencl.* 4 : 72). The Paris Congress decided further to include in the *Règles* a provision making it clear that a nominal genus established with only one cited species is to be treated as a monotypical genus (1950, *ibid* 4 : 153). We see therefore that under the *Règles*, the generic name *Palmatotriton* must be regarded as having been validly published—though inadvertently and in an irregular manner—as from Smith, 1945, for it was provided with an "indication" for the purposes of Article 25 by having been published with an "indicated" type species (by monotypy). It is true that no author's name was cited for the species indicated as type species under the name *Palmatotriton rufescens* and that a certain amount of specialised knowledge is necessary in order to identify that species with the nominal species *Oedipus rufescens* Cope, 1869, but this

cannot be held out as an argument against the availability of the generic name *Palmatotriton*, for zoological literature abounds with instances of generic names—some of them extremely well-known names in very common use—which were published with cited species for which no author's names were given by the original author of the name. Moreover, it is impossible to point to any provision in the *Règles* which would give any colour to the contention that a generic name so published does not possess availability ”.

7. In the foregoing circumstances the name *Palmatotriton* Smith, 1945, cannot legitimately be regarded either as a *nomen nudum* or as a *nomen dubium*. On the other hand, the name was published inadvertently and it could not fail to give rise to confusion if it were permitted to retain availability for nomenclatorial purposes. It is accordingly recommended that, in order to avoid this undesirable situation from arising, the International Commission on Zoological Nomenclature should use its Plenary Powers to suppress this name altogether. This name would then become available for use by any later author either as the name for a genus containing *Oedipus rufescens* Cope or in any other sense. It is suggested also that it would be convenient to take the present opportunity to place on the *Official List of Specific Names in Zoology* the specific name *rufescens* Cope, 1869, as published in the combination *Oedipus rufescens*, that name being the oldest available specific name of an extremely common and well-known species of salamander.

8. The proposal now submitted is that the International Commission on Zoological Nomenclature should :—

- (1) use its Plenary Powers to suppress the generic name *Palmatotriton* Smith, 1945, for the purposes both of the Law of Priority and of the Law of Homonymy ;
- (2) place the name *Palmatotriton* Smith, 1945, as proposed under (1) above, to be suppressed under the Plenary Powers, on the *Official Index of Rejected and Invalid Generic Names in Zoology* ;
- (3) place the specific name *rufescens* Cope, 1869, as published in the combination *Oedipus rufescens*, on the *Official List of Specific Names in Zoology*.

II. THE SUBSEQUENT HISTORY OF THE CASE

2. Registration of the present application : Upon the receipt of Dr. Hobart M. Smith's preliminary communication in 1951

the question of the status to be assigned to the generic name *Palmatotriton* Smith was allotted the Registered Number Z.N.(S.) 594.

3. Publication of the present application : The present application was sent to the printer before the meeting in Copenhagen in July 1953 of the Fourteenth International Congress of Zoology but owing to the preoccupation of the Office of the Commission first with the preparations for that Congress and later with the publication of the work *Copenhagen Decisions on Zoological Nomenclature* that it was not until 11th May 1954 that this paper was published in Part 8 of volume 9 of the *Bulletin of Zoological Nomenclature* (Smith, 1954, *Bull. zool. Nomencl.* 9 : 247—249).

4. Issue of Public Notices : Under the revised procedure prescribed by the Thirteenth International Congress of Zoology, Paris, 1948 (1950, *Bull. zool. Nomencl.* 4 : 51—56) Public Notice of the possible use by the International Commission on Zoological Nomenclature of its Plenary Powers in the present case was given on 11th May 1954 (a) in Part 8 of volume 9 of the *Bulletin of Zoological Nomenclature* (the Part in which the present application was published) and (b) to the other prescribed serial publications. In addition, such Notice was given also to certain general zoological serial publications and to one specialist serial.

5. Comments received : Two comments were received in the present case. The first of these comments came from an entomologist who was interested in this case only from the point of view of the question of principle involved and who took the view that the name *Palmatotriton* Smith, 1949, was an invalid name and had always been so and therefore that the use of the Commission's Plenary Powers was not necessary to secure the rejection of this name. The second comment was from a specialist in the group concerned who supported the action recommended in the present application. The communications so received are reproduced in the immediately following paragraphs.

6. Comment received from Dr. Curtis W. Sabrosky (United States Department of Agriculture, Agricultural Research Service, Entomology Research Branch, Washington, D.C., U.S.A.) : On 9th July 1954 Dr. Curtis W. Sabrosky (*United States Department*

of Agriculture, Agricultural Research Service, Entomology Research Branch, Washington, D.C., U.S.A.) communicated the following comment on the present case to the Office of the Commission (Sabrosky, 1954, *Bull. zool. Nomencl.* 9 : 286) :—

Although I am not a herpetologist, I am prompted by the general principle involved to comment on Hobart M. Smith's "Proposed Use of the Plenary Powers to Suppress *Palmatotriton* Smith 1945" (*Bull. zool. Nomencl.* 9 : 247—249).

It was specifically to prevent the validation of names in such an inadvertent manner (cf. Minutes of Nomenclature Section of the Budapest Congress) that Article 25 was amended at Budapest in 1927, not only by requiring, for generic names, the designation of a genotype (Article 25, c. 3) but also by requiring (Article 25, c.1) a summary of characters for the taxon concerned.

It appears to me that the latter proviso is the critical one in the case of *Palmatotriton*. The article in question contains no summary of the characters of the genus *Palmatotriton*, nor is the latter published "with a statement in words indicating the characters of the genus . . . concerned" (*Bull. zool. Nomencl.* 4 : 71, revised wording for proviso 1). The species *rufescens* is briefly described as a "small, broadfooted species about two inches long" but there is no generic characterization.

Accordingly, I do not believe that *Palmatotriton* has any status as of Smith (1945). To give it any recognition, by using the Plenary Powers to suppress it, would in my opinion be a retrogressive step in our long struggle to raise the level of taxonomic work.

7. Comment received from Professor Robert Mertens (Natur-Museum und Forschungs-Institut Senckenberg, Frankfurt a. Main, Germany) : On 22nd July 1954 Professor Robert Mertens (*Natur-Museum und Forschungs-Institut Senckenberg, Frankfurt a. M.*) communicated to the Commission the following statement in support of the present application (Mertens, 1954, *Bull. zool. Nomencl.* 9 : 286) :—

Mit den von Dr. H. M. Smith auf p. 249 des 1954, *Bull. zool. Nomencl.* 9, 8 veröffentlichten drei Vorschlägen über die Gattung *Palmatotriton* Smith, 1945, und den Species-Namen *rufescens* Cope, 1869, bin ich durchaus einverstanden.

8. Supplementary Report submitted by the Secretary in December 1955 : In November 1954 there was issued to the Members of the Commission a Voting Paper (V.P.(54)96) in

which particulars were given of the comments received in the present case and a decision invited on the action recommended in the application submitted in 1952. From comments received from certain of the Members of the Commission during the Prescribed Voting Period on the foregoing Voting Paper Mr. Hemming as Secretary reached the conclusion that in view of the fact that the premises on which the application in this case was based, though correct at the time when this application was prepared, had been rendered out of date by a decision subsequently taken by the Fourteenth International Congress of Zoology, Copenhagen, 1953, it was desirable that the Commission should have an opportunity of re-examining this case in the light of the decision taken by the foregoing Congress, notwithstanding the fact that that Congress had protected work then in progress and therefore that it would have been within the power of the Commission to deal with this case on the basis of the proposals submitted with the Voting Paper referred to above. The point at issue was solely one of procedure, namely whether, in order to secure the object sought by the applicant, the Commission would need to use its Plenary Powers as would have been necessary before the Copenhagen Congress or whether the use of the above Powers would no longer be required. Accordingly, on 21st February 1955 Mr. Hemming placed on the Commission's File Z.N.(S.) 594 a Minute (1) withdrawing the proposals submitted with Voting Paper V.P.(54)96, and (2) directing that this case be re-submitted to the Commission with an explanatory note drawing attention to the change which had occurred in the situation as regards this case as the result of the action of the Copenhagen Congress. In accordance with the foregoing direction Mr. Hemming on 13th December 1955 submitted to the Commission the following paper containing revised proposals for dealing with this case :—

Proposal for the adoption of a revised procedure for dealing with application Z.N.(S.) 594 in regard to the generic name "Palmatotriton" Smith (H.M.), 1945 (Class Amphibia)

By FRANCIS HEMMING, C.M.G., C.B.E.

(Secretary to the International Commission on Zoological Nomenclature)

I am sorry to have to trouble the Commission again with the intrinsically unimportant case of the generic name *Palmatotriton* Smith

(H.M.), 1945 (Class Amphibia), but I consider this to be desirable for the reasons explained briefly below.

2. This case was submitted by Professor Hobart M. Smith whose application was published on 11th May 1954 in Part 8 of volume 9 of the *Bulletin of Zoological Nomenclature* (Smith, 1954, *Bull. zool. Nomencl.* 9 : 247—249). It is sufficient here to recall as follows the salient facts in this case :—

- (1) Professor Hobart M. Smith's application had as its object the suppression under the Plenary Powers of a generic name (*Palmatotriton*) which had been used by him in combination with the specific name *rufescens* in a paper of his published in 1945 in a semi-popular serial publication issued from Rochester, New York State.
- (2) In using the name *Palmatotriton*, in the foregoing paper Professor Smith did so in the belief that that name, which he knew had been proposed by a colleague as the name of a new genus for *Oedipus rufescens* Cope, 1869, had actually been published in this sense. This belief was ill-founded and in fact Professor Smith's paper was the first occasion on which this name appeared in print.
- (3) When Professor Smith realised that he had inadvertently published the name *Palmatotriton* which his colleague by whom this name had been proposed in manuscript had later—as he then learnt—decided not to publish, he decided to ask the Commission to restore the *status quo ante* by suppressing the above generic name under its Plenary Powers. Accordingly, in February 1952 Professor Smith submitted to the Commission the application Z.N.(S.) 594, with which the present paper is concerned.
- (4) Under the *Règles* as existing at the time when this application was submitted by Professor Smith, that is to say, under the provisions of Proviso (c) to Article 25, inserted in the *Règles* by the Budapest Congress of 1927, as liberalised by the Paris Congress of 1948, the name *Palmatotriton* Smith was an, available name, since it had a type species (*Palmatotriton rufescens*) “indicated” by monotypy. (The question whether the nominal species *Palmatotriton rufescens* was recognisable or whether the name so published was a *nomen dubium* was naturally a matter of taxonomic judgment only and a matter which did not in any way affect the nomenclatorial availability either of the specific name *rufescens* or of the generic name *Palmatotriton*). Thus, at the date of the submission of Professor Smith's application the only way of depriving the name *Palmatotriton* of the status of availability as from 1945 which it had acquired through having been published by Professor

Smith was by the use by the Commission of its Plenary Powers to suppress it for nomenclatorial purposes.

3. Although (as explained in the preceding paragraph) the premises upon which Professor Smith's application was based were perfectly valid at the time when that application was submitted, the position was changed later by a decision taken in 1953 by the Fourteenth International Congress of Zoology, Copenhagen. The decision in question is Decision 109 (1953, *Copenhagen Decisions zool. Nomencl.* : 61) which provides that, in order to acquire the status of availability, a new generic or specific name published after 31st December 1930 must be accompanied "with a statement in which the author of the name attempts to indicate differentiating characters for the genus, species or subspecies concerned".

4. When in the beginning of 1954 it was possible to arrange for the publication of Professor Smith's application in the *Bulletin of Zoological Nomenclature*, I considered the question whether it was necessary first to suggest to Professor Smith that he should revise his application in the light of the Copenhagen Congress' decision quoted in the preceding paragraph. The decisions on nomenclature taken by that Congress were not then (and are not now) technically in force (1953), *Copenhagen Decisions zool. Nomencl.* 103, Decision 196) but the Congress had instructed the Commission to conduct its day-to-day work upon the basis of those decisions (*ibid.* : 103, Decision 199). Accordingly, if at the time when the question of sending this case to the printer came to be considered, that had been a new application, I should certainly have thought it necessary to ask him to revise the form of his application. I took the view, however, that, as this was a case in progress at the time of the Copenhagen Congress, it was covered by the general principle that decisions by that Congress were not to be allowed to upset work already done by the Commission in individual cases. I therefore decided that it was not necessary to ask Professor Smith to revise his application and I thereupon arranged for its publication in the form in which it had been submitted. Since publication I have, however, received communications from two specialists who have taken the view that, having regard to the decision of the Copenhagen Congress discussed above, the use of the Plenary Powers to suppress the name *Palmatotriton* Smith, 1945, if not actually unnecessary, would be liable to be confusing to zoologists, since under the foregoing decision, the use of the Plenary Powers would not be required.

5. In these circumstances I have decided to withdraw Voting Paper V.P.(54)96 and with it the proposals in regard to the name *Palmatotriton* Smith, 1945, as set out in Points (1) to (3) on page 249 of volume 9 of the *Bulletin of Zoological Nomenclature*. In place of the proposals so withdrawn I now submit revised proposals for the consideration of

the Commission. The general effect of the revised proposals is exactly the same as that of the proposals originally submitted, the only difference being that under those proposals it was recommended (as was then necessary) that the Plenary Powers should be used, whereas now (under the Copenhagen decision quoted in paragraph 3 above) the desired object can be attained without the use of those Powers. The revised proposals now submitted are that the Commission should :—

- (1) give a Ruling that under the provisions of Proviso (c) in Article 25, as amended (by Decision 109) by the Fourteenth International Congress of Zoology, Copenhagen, 1953, subsequent to the submission of Application Z.N.(S.) 594 the generic name *Palmatotriton* Smith, 1945, which formed the subject of that application, is to be treated as having been published without the minimum “ indication ” required by that Proviso, amended as specified above ;
- (2) place the under-mentioned generic name on the *Official Index of Rejected and Invalid Generic Names in Zoology* : *Palmatotriton* Smith (H.M.), 1945 (a name rejected under (1) above as not having been published with an “ indication ”) ;
- (3) place the under-mentioned specific name on the *Official List of Specific Names in Zoology* : *rufescens* Cope, 1869, as published in the combination *Oedipus rufescens*.

III. THE DECISION TAKEN BY THE INTERNATIONAL COMMISSION ON ZOOLOGICAL NOMENCLATURE

9. Issue of Voting Paper V.P.(O.M.)(55)39 : On 13th December 1955 a Voting Paper (V.P.(O.M.)(55)39) was issued in which the Members of the Commission were invited to vote either for, or against, “ the adoption of the proposal relating to the generic name *Palmatotriton* Smith, 1945, set out in paragraph 5 of the note by the Secretary bearing the Number Z.N.(S) 594 submitted simultaneously with the present Voting Paper ” [i.e. in the paragraph numbered as above in the Supplementary Report reproduced in paragraph 8 of the present *Opinion*].

10. The Prescribed Voting Period : As the foregoing Voting Paper was issued under the One-Month Rule, the Prescribed Voting Period would normally have closed on 13th January 1956.

In view, however, of the possibility of delays in overseas mails consequent upon the abnormally heavy traffic at Christmas time, the Secretary on 13th December 1955 executed a Minute extending the Prescribed Voting Period on the above Voting Period from one calendar month to six weeks. Under this direction the Prescribed Voting Period on Voting Paper V.P. (O.M.)(55)39 closed on 24th January 1956.

11. Particulars of the Voting on Voting Paper V.P.(O.M.)(55)39 :
At the close of the Prescribed Voting Period, extended to the date specified in paragraph 10 above, the state of the voting on Voting Paper V.P.(O.M.)(55)39 was as follows :—

(a) *Affirmative Votes had been given by the following twenty-five (25) Commissioners (arranged in the order in which Votes were received) :*

Mertens ; Lemche ; Hering ; Prantl ; Bodenheimer ;
Holthuis ; Vokes ; do Amaral ; Mayr ; Hankó ; Key ;
Riley ; Esaki ; Jaczewski ; Boschma ; Dymond ;
Bradley (J.C.) ; Sylvester-Bradley ; Stoll ; Cabrera ;
Kühnelt ; Bonnet ; Miller ; Tortonese ; Hemming ;

(b) *Negative Votes :*

None ;

(c) *Voting Papers not returned :*

None.

12. Declaration of Result of Vote : On 24th January 1956, Mr. Hemming, Secretary to the International Commission, acting as Returning Officer for the Vote taken on Voting Paper V.P.(O.M.)(55)39, signed a Certificate that the Votes cast were as set out in paragraph 11 above and declaring that the proposal submitted in the foregoing Voting Paper had been duly adopted and that the decision so taken was the decision of the International Commission in the matter aforesaid.

13. Preparation of the Ruling given in the present “ Opinion ” :
On 8th March 1956 Mr. Hemming prepared the Ruling given in

the present *Opinion* and at the same time signed a Certificate that the terms of that Ruling were in complete accord with those of the proposal approved by the International Commission in its Vote on Voting Paper V.P.(O.M.)(55)39.

14. Original References : The following are the original references for the names placed on the *Official Lists* and *Official Indexes* by the Ruling given in the present *Opinion* :

Palmatotriton Smith (H.M.), 1945, Ward's *Nat. Sci. Bull.* 19(1) : 4

rufescens, *Oedipus*, Cope, 1869, *Proc. Acad. nat. Sci. Philad.* 21 : 104

15. Family-Group-Name Aspect : No family-group-name problem arises in the present case.

16. The prescribed procedures were duly complied with by the International Commission on Zoological Nomenclature in dealing with the present case, and the present *Opinion* is accordingly hereby rendered in the name of the said International Commission by the under-signed Francis Hemming, Secretary to the International Commission on Zoological Nomenclature, in virtue of all and every the powers conferred upon him in that behalf.

17. The present *Opinion* shall be known as *Opinion* Four Hundred and Twenty-Five (425) of the International Commission on Zoological Nomenclature.

DONE in London, this Eighth day of March, Nineteen Hundred and Fifty-Six.

*Secretary to the International Commission
on Zoological Nomenclature*

FRANCIS HEMMING